

### REMARKS

Applicant wishes to thank the Examiner for the courtesies extended to the undersigned during the personal interview conducted on August 14, 2007. Among other things, Applicant agreed to re-draft the independent claims to better define the invention. Applicant has therefore submitted new independent claim 27. Upon allowance of this claim, all pending claims will be re-drafted or cancelled. Applicant respectfully submits that when the scope and content of the prior art is compared to claim 27, it is apparent that the claimed invention is not disclosed and would not have been obvious.

In the previously filed response, Applicant differentiated the present invention from U.S. Provisional Patent Application No. 60/481,555—Crawford and U.S. Patent No. 6,386,973—Yoseloff. In terms of claim 27, it is again noted that these references do not disclose (1) a “player in/out” indicator, (2) bet operation buttons on or adjacent the player screen, or (3) action buttons on or adjacent the player screen. Additionally, there is no disclosure in the Crawford provisional or Yoseloff of a player operated payment device, such as a slot to accept paper currency or a magnetic strip card reader, positioned on or adjacent the player screen. Finally, the common display disclosed by Yoseloff does not disclose or suggest displaying betting information and multiple community cards, as recited by claim 27, but instead relates to disclosing a single card image used along with paper cards. The Crawford provisional has no disclosure of a common display, and instead teaches that all information must be displayed on a player screen. For these reasons, the invention of claim 27 is not disclosed or suggested by the prior art.

During the interview, the Examiner made note of United States Patent No. 6,641,483—Luciano et al., which discloses a gaming table having player display screens 41 and a dealer’s video display 38 (*see* FIG. 1). As noted in the Response and discussed during the interview, the Crawford provisional discloses vertical player screens standing on a table surface and teaches against using a center screen. Luciano et al. discloses player screens and a central dealer screen but does not teach or suggest that the player display screens are “within the tabletop at each of the player positions so that each player can observe the center screen” as recited by claim 27. Luciano et al., like the Crawford

provisional, teaches each player staring at an individual player screen and that the dealer's video display is at times covered or made impossible for the players to see. Col. 4, lines 14-15. This is the opposite of the invention defined by claim 27, which recites that the common display shows "said community cards and betting information at all times to all the players." Therefore, the present invention requires not only that the player screens be in a horizontal position in the tabletop, but that the center display show information pertaining to cards and bets to all the players *at all times*, and not hide "dealer" information as taught in Luciano et al.

In summation, new claim 27 is repeated below, with the features not found in any of Yoseloff, the Crawford provisional or Luciano et al. shown in **bold**:

27. (Newly submitted) A dealerless game table for playing an automated card game exclusively using images of cards and automated betting without chips, the game table comprising:

a horizontal tabletop having two or more player positions;

a supporting base;

player interface console terminals positioned within the tabletop at each of the player positions so that each player can observe all other players, the terminals each comprising:

a screen to display pocket cards and betting information relevant only to one particular player;

**a player in/out indicator;**

**several bet operation buttons on or adjacent the screen;**

**several action buttons on or adjacent the screen; and**

**a player operated payment device;**

**a single common display showing multiple community cards and betting information for each player, the common display located at the center of the table and mounted in the tabletop surface clearly displaying said community cards and betting information at all times to all the players; and**

a table central processing unit (CPU) connected to all the player interfaces and to the single common display, wherein the CPU performs the functions of a dealer and automatically conducts the play of the game based upon inputs from the player interface console terminals.

During the interview, the Examiner also made note of United States Patent Application Serial No. 10/939,772 ("the '772 application") filed September 13, 2004 and published as United States Patent Publication No. 20050090304. The present application was filed March 29, 2004, nearly six months *before* the '772 application was filed and therefore the '772 application is not prior art to the present application. The Examiner noted that the '772 application purports to rely upon U.S. Provisional Application No. 60/481,555 ("the Crawford provisional" cited in the Office Action and discussed above) which was filed on Oct. 24, 2003. Applicant points out that MPEP § 2136.03 (III) explains that a U.S. application publication is entitled to the benefit of the filing date of a provisional application under 35 U.S.C. § 119(e) "if the provisional application(s) properly supports the subject matter relied upon to make the rejection in compliance with 35 U.S.C. § 112, first paragraph" and refers to MPEP § 706.02(f)(1), examples 5 to 9. It is respectfully submitted that the Crawford provisional has no disclosure that supports the disclosure in the '772 application relating to a gaming table with a central screen and horizontal player consoles. Therefore, the '772 application cannot rely on the filing date of the Crawford provisional and is thus not prior art to the present claims.

Moreover, the '772 application actually supports the patentability of the present claims. As set forth in MPEP § 2141 (III):

Objective evidence or secondary considerations such as ...copying by others ...[is] relevant to the issue of obviousness and must be considered in every case in which they are present. When evidence of any of these secondary considerations is submitted, the examiner must evaluate the evidence.

MPEP § 716.06 explains "evidence that competitors in the marketplace are copying the invention instead of using the prior art" is relevant to the determination of non-obviousness. In this case, there is more than the "mere fact of copying." In October 2003, as seen in the Crawford provisional application, there was not a single inference or suggestion of a table with horizontal player screens allowing players to view one another's reactions nor of a center display for community cards and betting information. The present application was filed five months later, in March 2004. Seven months later, nearly a year after the Crawford provisional was filed, the '772 application was filed.

AUG 28 2007

Not a single drawing sheet in the '772 application is the same as in the Crawford provisional. The only text shared between the '772 and the Crawford provisional is in the background descriptions and basic description of poker game play. Therefore, in one year, the applicant completely changed the design of the tables and the result was a table copying important aspects of the claimed invention. The wholesale change illustrates not "mere copying" but evidence that despite multiple options and variations shown in the Crawford provisional, the market had already demanded the type of novel and non-obvious table disclosed and claimed in the instant application and the applicant was forced to copy the fundamental features of the invention.

Finally, as set forth in the prior response, MPEP § 716.03(b) lists commercial success as a relevant factor when considering the non-obviousness of a patent claim. The Declaration of Brian Haveson already of record sets forth the nexus between the patentable features of the present invention and the commercial success of fully automated electronic poker tables that encompass these features.

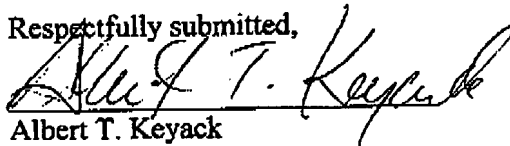
Therefore, upon review of the Crawford provisional and the '772 application in light of the Haveson Declaration, it is clear that both copying by others and commercial success establish the non-obviousness of the claimed invention. As stated by the Federal Circuit: Commercial success and copying are tributes to ingenuity, not evidence of legal obviousness. This rule is no less worthy when the new product narrowly fits into a field already well explored. *Arkie Lures, Inc. v. Gene Larew Tackle, Inc.*, 119 F.3d 953, 957, 43 USPQ2d 1294, 1297 (Fed. Cir. 1997).

### **Conclusion**

For all these reasons, it is respectfully submitted that the present application, including the amendments set forth above and the additional materials submitted herewith, is now in a condition to be allowed. Notice to this effect is earnestly solicited. As noted above, Applicant has requested a personal interview with the Examiner concerning this

application and the Examiner is encouraged to contact the undersigned telephonically to arrange a date and time for such interview.

Respectfully submitted,



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I, Albert T. Keyack, Registration No. 32,906, hereby certify that this correspondence is being transmitted by facsimile to the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 to facsimile number (571) 273-8300 on August 28, 2007.



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